

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

STEVEN RAY SMITH

CV. 08-557-HU

Petitioner,
v.

HARDY MEYERS, et al.,

Respondents.

RANKIN JOHNSON
714 S.W. 20th Place
Portland, Oregon 97205

Attorney for Petitioner

JOHN R. KROGER
Attorney General
JACQUELINE KAMINS
Assistant Attorney General
Department of Justice
1162 Court Street NE
Salem, OR 97301-4096

Attorneys for Respondent

MARSH, Judge

Magistrate Judge Dennis J. Hubel issued a Findings and Recommendation (#26) on January 29, 2010. The Magistrate Judge recommended that Petitioner's Petition for Writ of Habeas Corpus (#1) should be dismissed for lack of jurisdiction.

Petitioner has filed objections through his counsel (#28). When a party objects to any portion of the Magistrate's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate's report. See 28 U.S.C. § 636(b)(1)(B); McDonnell Douglas Corp. v. Commodore Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982).

The court has given the file of this case a *de novo* review, and has also carefully evaluated the Magistrate Judge's Findings and Recommendation, petitioner's objections, and the record of the case. The Findings and Recommendation is well-reasoned, without error, and adopted in its entirety.

////
////
////
////
////
////
////
////
////
////
////
////
////

CONCLUSION

The Magistrate Judge's Findings and Recommendation (#26) in this action is ADOPTED. Petitioner's Petition for Writ of Habeas Corpus (#1) is DISMISSED, for lack of jurisdiction. This court also adopts the Magistrate Judge's recommendation to decline to issue a Certificate of Appealability on the basis that petitioner

has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2). IT IS SO ORDERED.

DATED this 19 day of FEBRUARY, 2010.

/s/ Malcolm F. Marsh
Malcolm F. Marsh
United States District Judge